

## TITLE 8

ALCOHOLIC BEVERAGES<sup>1</sup>

## CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

## CHAPTER 1

INTOXICATING LIQUORS

## SECTION

8-101. Prohibited generally.

**8-101. Prohibited generally.** Except when he affirmatively shows that he has express authority under the state law<sup>2</sup>, it shall be unlawful for any person to receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this municipality. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1975 Code, § 2-101)

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

<sup>2</sup>State law reference

Tennessee Code Annotated, title 39, chapter 17.

## CHAPTER 2

BEER<sup>1</sup>

## SECTION

- 8-201. Sale of beer permitted only in specified zone.
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**8-201. Sale of beer permitted only in specified zone.** It shall hereafter be lawful to sell, store for resale, distribute or manufacture beer of alcoholic content of not more than five percent (5%) by weight or other beverages of a like alcoholic content within that area of the City of LaFollette, Tennessee described in annexation Ord. #377<sup>2</sup> of said city, and the privileges granted in this chapter shall only be exercised within the area described in Ord. #377. License authorized by this chapter shall only be issued for locations within the described area that is now zoned or may in the future be zoned for business use and the same shall be subject to all of the regulations, limitations and restrictions hereinafter provided. (1975 Code, § 2-201)

**8-202. Beer board created.** There is hereby created a board, which shall be known and designated as the Beer Board of the City of LaFollette, Tennessee. Such board shall be composed of the mayor and councilmen of the

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<sup>1</sup>State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

<sup>2</sup>Ordinance #377 is of record in the office of the city recorder.

City of LaFollette, Tennessee, or a board composed of five (5) members appointed by the mayor and councilmen. One of whom shall be the vice mayor as elected by the city council. The vice mayor, by virtue of the office, shall serve as the chairman of the board herein created. (1975 Code, § 2-202, as amended by Ord. #449, Feb. 1980)

**8-203. Beer not to contain more than 5% alcohol.** No person shall engage in the selling, storing for resale, distributing or manufacturing of beer of alcoholic content of not more than five percent (5%) by weight or other beverages of a like alcoholic content within the corporate limits of the City of LaFollette, Tennessee until he shall receive a permit to do so from the Beer Board of the City of LaFollette, Tennessee, which permit shall at all times be subject to all of the limitations and restrictions herein provided. (1975 Code, § 2-203)

**8-204. Beer petition contents.** Before any permit is issued by the beer board, the applicant therefore shall file with the beer board a sworn petition in writing on forms prescribed by and furnished by the board, and shall establish the following:

(1) That the applicant is a citizen of the United States, or if a syndicate or association, that all of the members thereof are citizens of the United States.

(2) The location of the premises at which the business shall be conducted.

(3) The owner or owners of such premises.

(4) That no person will be employed in the sale, storage for resale, distribution or manufacture of such beverages except those who are citizens of the United States.

(5) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued permits to such applicant.

(6) That no sale of such beverages will be made except in accordance with the permit granted.

(7) That no sale will be made to minors, and that the applicant will not permit minors or disorderly or disreputable persons heretofore connected with the violation of liquor laws to loiter around the place of business.

(8) That neither the applicant nor any persons employed, or to be employed by him in such distribution or sale of such beverage, has ever been convicted of any violation of the law against prohibition, sale, manufacture or transportation of intoxicating liquor, or of any crime involving moral turpitude within the past ten (10) years.

(9) That the applicant will conduct the business in person, for himself, or if he is acting as agent, the applicant shall state the person, firm,

or corporation, syndicate, association or joint stock company or companies for whom the applicant intends to act.

(10) That said sworn petition shall be filed a minimum of fifteen (15) days prior to the meeting of the beer board at which said petition is considered. The secretary of the board shall furnish copies of said petition to all members of the board within one (1) day of the date said petition is filed.

(11) That applicant shall pay a fee of one hundred dollars (\$100.00) with the filing of the application for a beer permit, said fee to cover the cost of investigation and processing of the application. (1975 Code, § 2-204)

**8-205. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to T.C.A. § 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of LaFollette. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. (Ord. #556, \_\_\_\_\_)

**8-206. Permit may be suspended or revoked for cause.** (1) All permits issued by the beer board under the provisions of this chapter shall be subject to suspension or revocation by said board for the violation of any of the provisions of the state beer act or any of the provisions of this chapter.

(2) The board created by this chapter is vested with full and complete power to investigate charges against any permit holder and to cite any permit holder to appear and show cause why his permit should not be suspended or revoked for the violation of the provisions of this chapter or the provisions of the state beer act.

(3) Complaints filed against any permit holder for the purpose of suspending or revoking such permits shall be made in writing and filed with the board. When the board shall have reason to believe that any permit holder shall have violated any of the provisions of this chapter or any of the provisions of the state beer act, the board is authorized, in its discretion, to notify the permittee of said violations and to cite said permittee by written notice to appear and show cause why his permit should not be suspended or revoked for such violation. Said notice to appear and show cause shall state the alleged violations charged and shall be served upon the permittee either by registered letter or by a member of the Police Department of the City of LaFollette, Tennessee. The notice shall be served upon the permittee at least ten (10) days before the date set for the hearing. At the hearing, the board shall publicly hear the evidence both in support of the charges and on behalf of the permittee. After such hearing, if the charges are sustained by the

evidence, the board may, in its discretion, suspend or revoke said permit. The action of the board in all such hearings shall be final, subject only to review by the court as provided in the state beer act. When a permit is revoked, no new permit shall be issued hereunder for the sale of beer at the same location, until the expiration of one (1) year from the date said revocation becomes final. (1975 Code, § 2-205)

**8-207. Permit to be posted.** The permit required by this chapter shall be posted in a conspicuous place on the premises of the permit holder. (1975 Code, § 2-206)

**8-208. Permits not transferable.** Permits issued under the provisions of this chapter are not transferable, either as to location or to successor by purchase, or otherwise, of the business for which the permit was issued, and in either case, a new permit is required in the manner provided herein. (1975 Code, § 2-207)

**8-209. Wholesalers to sell, etc. only to retailers.** It shall be unlawful for any wholesaler, distributor or manufacturer of beer, or any of their salesmen or representatives, to sell or deliver beer enroute, or from delivery vehicles, to any person other than holders of valid retail permits and it shall be the duty of such wholesaler, distributor, or manufacturer, their salesmen or representatives, to ascertain whether or not such purchaser is a holder of a valid retail beer permit. (1975 Code, § 2-208)

**8-210. Sale, etc. to incapacitated persons prohibited.** It shall be unlawful and it is hereby declared to be a misdemeanor for any person, firm, corporation, or association, engaged in the business regulated hereunder, to make, or to permit to be made, any sales or distribution of such beverages to persons intoxicated or to sell or distribute such beverages to persons who are feeble-minded, insane, or otherwise mentally incapacitated. (1975 Code, § 2-209)

**8-211. Purchase of beer for or by minors, prohibited.** It shall be unlawful for any minor to purchase or attempt to purchase any beverage regulated hereunder and it shall be unlawful for any minor to present or offer to permittee, his agent or employee, any written evidence of his age which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to procure such beverage. It shall also be unlawful for any person to purchase beer for a minor. (1975 Code, § 2-210)

**8-212. Operating hours of beer businesses.**<sup>1</sup> No alcoholic beverage regulated by this chapter shall be sold, given away, served, or otherwise dispensed or distributed between twelve o'clock (12:00) midnight and six o'clock (6:00) A.M. on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, nor at anytime on Sundays. No permit holder shall allow such beverages to be consumed, or to be opened for consumption, on or about the premises licensed hereunder in either bottle, glass, or other container, between twelve fifteen o'clock (12:15) A.M. and six o'clock (6:00) A.M. on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, nor at anytime on Sundays. Where the sale of such beverages is the only business or the primary business of the permit holder at the licensed premises, the premises shall be vacated of all customers and guests and closed between twelve-fifteen o'clock (12:15) A.M. and six o'clock (6:00) A.M. Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, and at all times on Sundays. (Ord. #501, April 1986)

**8-213. Sale, etc. within 500 feet of church etc. prohibited.** No permit for the sale, storage for resale, distribution or manufacture of beer of alcoholic content of not more than five percent (5%) by weight or other beverage of a like alcoholic content shall be issued to an applicant whose location is less than 500 feet from a church, public school, public park or regulated public playground. In determining the distance from a church or public school, the distance shall be measured from the center of the nearest permanent entrance of the church or public school building being used for religious or educational purpose, following the usual and customary path of pedestrian travel, to the center of the main entrance of the potential permittee. The distance from a public park or regulated public playground shall be measured from the nearest boundary of said park or playground to the center of the main entrance of the potential permittee. (1975 Code, § 2-212)

**8-214. Penalty.** Any person in violation of any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to fine in accordance with the general penalty clause in this code of ordinances. (1975 Code, § 2-213)

**8-215. Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1, to the City of LaFollette, Tennessee. At the time a new

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<sup>1</sup>Charter reference: § 6(22).

permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #556, \_\_\_\_)

**8-216. Civil penalty in lieu of suspension.** The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1,500 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1,000 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #556, \_\_\_\_)